Supreme Court, U.S.
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No. 00-604

In The

Supreme Court of the United States

MICHAEL PUMMILL,

Petitioner,

versus

TEXAS, NEW MEXICO & OKLAHOMA COACHES, INC.,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

BRIEF IN OPPOSITION

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LIST OF ALL PARTIES TO THE PROCEEDINGS

Parties to the proceedings are Petitioner, Michael Pummill and the Respondent, Texas, New Mexico & Oklahoma Coaches, Inc.

CORPORATE DISCLOSURE STATEMENT

Texas, New Mexico & Oklahoma Coaches, Inc. is wholly owned (100% of shares) by its parent corporation, Greyhound Lines, Inc. Greyhound Lines, Inc. is wholly owned (100% of shares) by its parent corporation, Laidlaw, Inc.

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STATUTE INVOLVED IN THE CASE

29 U.S.C. § 185(a) reads as follows:

> (a) Venue, amount, and citizenship. Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this Act, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

STATEMENT OF THE FACTS

Michael Pummill's employment was terminated on November 26, 1996 and notice of denial of his final appeal was given on January 2, 1997. His suit was filed in Federal District Court on June 3, 1999, over two years after the completion of his collective bargaining agreement appeal.

REASONS FOR DENYING THE WRIT OF CERTIORARI

The question presented for review is, in truth, an unqualified invitation for this Court to overturn its decision in *DelCostello v. International Brotherhood of Teamsters* insofar as it established a six-month limitations period under 29 U.S.C. § 160(b) (2000) for suits filed pursuant to Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185(a) (2000). Both the District Court and the

Fifth Circuit Court of Appeals have respectfully declined such invitation in deference to this Court and the doctrine of stare decisis. The Fifth Circuit's ruling was proper in all respects and Respondent respectfully urges this Honorable Court to deny the Petition for Writ of Certiorari.

I.

No justification exists to overrule the prior decision.

The Court approaches the reconsideration of decisions with the utmost caution. *State Oil Co. v. Khan*, 522 U.S. 3, 20, 118 S.Ct. 273, 284 (1997). The policy of stare decisis is critical because it promotes evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process. *Id.* Stare decisis is such a persuasive force that courts require a departure from precedent to be supported by special justification. *Dickerson v. U.S.*, 120 S.Ct. 2326 (2000). Only the most compelling justification under the accepted standard of precedent will suffice to repudiate a principle of law. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 854, 112 S.Ct. 2791, 2808 (1992). History shows the policy of stare decisis will yield only when the initial decision proves problematic or when conditions have changed.

The solution fits the problem.

Occasionally justification to overturn a prior decision arises when a precedent is unworkable, was the result of manifest error, was poorly reasoned, or adherence would

produce a manifest injustice. See *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. at 876, 112 S.Ct. at 2815; *U.S. v. Gaudin*, 515 U.S. 506, 521, 115 S.Ct. 2310, 2319 (1995); *U.S. v. Int'l Business Machines Corp.*, 517 U.S. 843, 856, 116 S.Ct. 1793, 1801 (1996); *Agostini v. Felton*, 521 U.S. 203, 236, 117 S.Ct. 1997, 2017 (1997). Pummill does not assert unworkability, error, or manifest injustice. He cannot because the *DelCostello* decision operates as intended, to balance the interests of both employees and employers.

No facts have changed.

Changed circumstances, in the form of factual developments or legal developments, may provide special justification for denying stare decisis. *Agostini v. Felton*, 521 U.S. at 215-216, 117 S.Ct. at 2006-2007. Factual developments may reflect changes in the individual case being considered as in *Agostini* or in facts related to a more general issue. *Id.* The facts of Pummill's case are indistinguishable from the facts in *DelCostello*, where an employee sought to assert a collective bargaining agreement claim against his employer after unsuccessful arbitration, but failed to meet the limitations period. See *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. 151, 154, 103 S.Ct. 2281, 2285 (1983). Therefore, Pummill may not and does not argue a change in facts to support his request to overturn *DelCostello*.

No legal developments dictate a different result.

Legal developments may outweigh the force of precedent when subsequent jurisprudence undermines the

doctrinal underpinnings of a decision or when Congress speaks through statutory changes. *Agostini v. Felton*, 521 U.S. at 215-216, 117 S.Ct. at 2006-2007; *Teague v. Lane*, 489 U.S. 288, 332, 109 S.Ct. 1060, 1087 (1989). Two elements dictated the results in *DelCostello*; 1) the Rules of Decision Act did not effect a mandatory rule to apply state law in federal interstices, and 2) Congress intended the Court to balance the interests at stake in determining the proper limitations period. *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. at 160 and 171, 103 S.Ct. at 2288 and 2294. Neither of these doctrines has been assaulted by judicial or legislative action in the seventeen intervening years since the *DelCostello* decision. Notably, the Court has consistently applied the symmetry analysis both before and after the *DelCostello* decision to determine proper limitations periods. See *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. at 162, 103 S.Ct. at 2289; *Agency Holding Corp. v. Malley-Duff Ins. Co.*, 483 U.S. 143, 107 S.Ct. 2759 (1987); *North Star Steel Co. v. Thomas*, 515 U.S. 29, 115 S.Ct. 1927 (1995); *Reed v. United Transportation Union*, 488 U.S. 319, 109 S.Ct. 621 (1989). Likewise, Congress has not acted during this period to define a limitations period that would discharge the *DelCostello* holding. Therefore, Pummill has no claim under the standard application of stare decisis to argue for review due to legal developments.

"A decision to overrule should rest on some special reason over and above the belief that a prior case was wrongly decided." *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833, 864, 112 S.Ct. 2791, 2814 (1992). No justification, special or otherwise, exists in Pummill's case.

II.

DelCostello upholds Congressional intent.

"Congress established a limitations period [in 29 U.S.C. § 160(b)] attuned to what it viewed as the proper balance between the national interests in stable bargaining relationships and finality of private settlements, and an employee's interest in setting aside what he views as an unjust settlement under the collective bargaining system." *United Parcel Service Inc. v. Mitchell*, 451 U.S. 56, 70-71, 101 S.Ct. 1559, 1567-1568 (1981). The Court in *DelCostello* reaffirmed this interpretation of legislative intent. *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. 151, 169, 103 S.Ct. 2281, 2293 (1983). The *DelCostello* decision considered two options for determining the limitations period for an employee action against his collective bargaining agreement employer; the most closely analogous state law and a federally based limitation period. *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. at 154-55, 103 S.Ct. at 2285. In *DelCostello*, the Court agreed with its prior analysis in *Mitchell* that under state law the claim was most analogous to provisions to vacate an arbitration award. *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. at 154-155, 103 S.Ct. at 2285; and see *United Parcel Service Inc. v. Mitchell*, 451 U.S. at 60, 101 S.Ct. at 1562. However, the Court also ruled that § 160(b) clearly provided a closer analogy and a more appropriate vehicle for interstitial lawmaking given the federal policies at stake and the practicalities of litigation of this type of employee claim. *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. at 169 and 172, 103 S.Ct. at 2293 and 2294. The Court's well-reasoned decision to adopt a federal statute designed to balance

the interests at stake upholds the Congressional intent and should not be disturbed.

CONCLUSION

Because the claim presents no conditions appropriate to reject stare decisis and fails to identify a more appropriate means to uphold Congressional intent to balance the interests of individuals and employers, the writ should be denied. Respondent, Texas, New Mexico & Oklahoma Coaches, Inc. respectfully requests the Court to deny the Petition for Writ of Certiorari.

Respectfully submitted,

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